



Brussels, 28.6.2022

C(2022)4652 final

Dear President,

The Commission would like to thank the Senát for its Opinion on the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 575/2013 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor {COM(2021) 664 final}, as well as the proposal for a Directive of the European Parliament and of the Council amending Directive 2013/36/EU as regards supervisory powers, sanctions, third-country branches, and environmental, social and governance risks, and amending Directive 2014/59/EU {COM(2021) 663 final}.

These two proposals form part of a package of ambitious measures designed to ensure that EU banks become more resilient to potential future economic shocks, while contributing to Europe's recovery from the COVID-19 pandemic and the transition to climate neutrality. This finalises the implementation of the reforms agreed by the EU and its G20 partners in the Basel Committee on Banking Supervision (BCBS).

The package strikes a delicate balance between several important objectives: (i) observe the Basel standards; (ii) take into due consideration both the specific features of the European banking sector and the impact stemming from the pandemic; (iii) not significantly increase the overall capital requirements; and, (iv) preserve the competitiveness of the EU banking system and the level playing field with international players.

The Commission welcomes the Senát's broad support for the smooth finalisation of the implementation of the Basel standards in the EU and the minimum level of harmonisation of the requirements applicable to third country branches.

The Commission notes the Senát's doubts relating to the measures that have been introduced to address European specificities and the proposed level of application of the output floor. The Commission also notes that the Senát considers that the Commission should be more ambitious in relation to crypto assets. It is pleased to have this

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opportunity to provide a number of clarifications regarding its proposal and trusts that these will allay the Senát's concerns.

The package implements the Basel standards faithfully. However, in order to mitigate the average increase in capital requirements, a number of targeted amendments – including appropriate transitional measures – were needed to tailor the standards to the distinctive features of the EU banking sector and economy. The package also gives necessary tools to the Commission to prevent competitive disadvantages for EU banks, should other major jurisdictions decide not to implement part of the Basel agreement or significantly deviate from it.

The proposed approach for the output floor incorporates a distribution mechanism whereby capital requirements resulting from the floor calculation would be allocated fairly across the group entities according to their risk profile. This would ensure that banks in both home and host Member States would get their “fair share” of the floored requirements instead of unduly multiplying the impacts of the output floor without recognising the benefits of risk diversification at consolidated group level. This approach is part of the delicate balance that the package tries to achieve between the interests of home and host authorities in the context of group structures. The application of the output floor at all levels of consolidation would result in potential increases in capital requirements, which in turn would contradict the political guidance from the co-legislators and possibly generate demands to deviate from the Basel agreement in various areas.

As regards crypto assets, while they share certain common characteristics with more traditional financial assets, some of their features are significantly different. Therefore, it is unclear whether the existing prudential rules would adequately capture the risks inherent in those assets. Since the BCBS only recently started exploring the question of what a dedicated treatment for those assets could look like, it was not possible to include specific elements in this proposal. In addition, as crypto assets are not restricted by geographical boundaries by nature, the Commission considered that an international consensus would be particularly important to ensure an adequate level playing field for EU banks. A review clause has therefore been introduced for the Commission to assess whether a dedicated prudential treatment for crypto assets would be needed and to adopt, if appropriate, a legislative proposal to this end, taking into account the work undertaken by the BCBS. If the BCBS work could be completed before the end of the negotiations on the package, the Commission stands ready to explore the possibility of incorporating their results into the package with the co-legislators.

The legislative process on the package is underway and the Commission remains hopeful that a final agreement will be reached this year or at the beginning of next year. The Commission looks forward to working with the Czech Presidency of the Council in the second half of 2022.

In this context, the Senát's Opinion has been made available to the Commission's representatives in the ongoing negotiations of the co-legislators and will inform these discussions.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Senát and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*

*Mairead McGuinness
Member of the Commission*